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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/637,845

08/07/2003

Fernando Stroppiana

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07/10/2006

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EXAMINER

EASHOO, MARK

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,845

Applicant(s)

STROPPIANA, FERNANDO

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) 13 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12 is/are rejected.
7) ☒ Claim(s) 7-8 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION***Election/Restrictions***

Applicant's election of claim group I, claims 1-12, in the reply filed on 12-OCT-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 13 remains withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 12-OCT-2005.

Claim Objections

Claims 7-8 are objected to because of the following informalities: Specifically, claim 7 recites a set of parentheses, (), that does not refer to a drawing number because as it is empty. This appears to be a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stropplana (EP 0 968 804 A2) in view of Smith et al. (US Pat. 3,039,137) and Armstrong (GB 617,266).

Regarding claims 1, 10, and 12: Stropplana teaches the basic claimed process of forming a strip of elastomeric material, comprising: feeding an extruder strips of vulcanizable elastomeric material having different colors (3:1-10); extruding the elastomeric material through a die plate and forming a granular material (Fig. 1, elements 2-5 and 3:5-20); forming the granular material into a gap wherein pressure is applied to form a strip of vulcanizable elastomeric material (Fig. 1, elements 7-11); and subjecting the strip to vulcanization (Fig. 1, element 12 and 4:1-15). It is intrinsic that the colored strips fed to the extruder are at least partially mixed in the extruder.

Stropplana further teaches that a "substantially uniform surface appearance" can also be made (3:1-10) in contrast to a non-uniform surface appearance. As such, it is submitted that it is well within the skill of an ordinary artisan that a "uniform surface appearance" is achieved by either using a chromatically homogeneous starting material or by blending different colored starting materials to form a chromatically homogeneous material.

Stropplana does not teach mixing granular material and then gravity feeding the mixed material to a strip forming unit. However, Smith et al. teaches mixing granular material and then gravity feeding the mixed material to a strip forming unit (Figs. 1-2, elements 14, 16, and 18). Stropplana and Smith et al. are combinable because they are

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from the same field of endeavor, namely, forming variegated plastic sheeting. At the time of invention a person of ordinary skill in the art would have found it obvious to have mixed granular material and then gravity feed the mixed material to a strip forming unit, as taught by Smith et al., in the process of Stropplana, and would have been motivated to do so because Smith et al. suggests that such feeding means is an equivalent and alternative means to feed colored granules to a strip forming unit.

Stropplana does not teach using calendar rolls to form a strip. However, Armstrong teaches using calendar rolls to form a strip (Figs. 2, element 14). Armstrong also teaches that the feed rate to the calendar rolls is at a rate which maintains a bank of material at the nip/gap (1:45-60). Stropplana and Armstrong are combinable because they are from the same field of endeavor, namely, forming variegated plastic sheeting. At the time of invention a person of ordinary skill in the art would have found it obvious to have using calendar rolls to form a strip, as taught by Armstrong, in the process of Stropplana, and would have been motivated to do so because Armstrong suggests that calendar rolls are an equivalent and alternative means to shape colored granules into a strip.

Regarding claims 2 and 9: Stropplana teaches storing granular material (Fig. 1, element S). Furthermore, it is submitted that it is intrinsic, if not obvious, that the granular material reaches room temperature while in storage.

Regarding claims 3-8: Stropplana teaches that the fragmented/granulated material can have various morphologies (2:49-55) and sizes (3:5-15). As such it is submitted, absent a teaching of unexpected results, that the particular size and crescent shape of the instantly claimed granular material is obvious choice of a known granular shape as suggested by Stropplana.

Regarding claim 11: The examiner recognizes that the claimed processing temperature range is not substantially taught by the applied references. However, the reference(s) all teach the use of particular ingredients and therefor inherently place limits upon processing conditions. Since the instant claims are not limited to a specific material, it is submitted that it is well known in the molding art to optimize processing temperature depending upon the material being processed and would have found it obvious to do so using routine experimentation in order to form desired physical characteristics in the final molded product.

Response to Arguments

Applicant's arguments filed 19-APR-2006 have been fully considered but they are not persuasive. Applicant's arguments with regard to the newly added limitation "chromatically homogenous" has been substantially responded to in the above rejection as such limitation is taught or rendered obvious by Stropplana (3:1-10 - ie. uniform surface appearance).

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

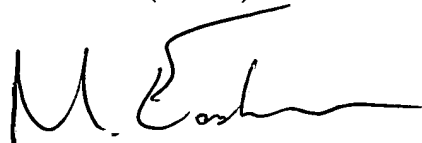
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

5/Jul/06

me
July 5, 2006